IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.118 OF 2006
IN
SUIT NO.648 OF 2005

Yusuf Ismail Turk ... Plaintiffs

versus

Francis Waczizarg Agencies Pvt. Ltd. and others ... Defendants

and

Nasreen Turk and others ... Applicants

Shri Vishal Ghosalkar for applicants.

Ms.Sonali Jain i/by Dave & Co. for defendant no.1

CORAM : S.C.DHARMADHIKARI, J.

DATE : 22nd March 2006

PC :

1. In all fairness Shri Ghosalkar appearing for the applicants-original plaintiffs points out that the notice to the defendants states that the matter would appear before this Court on 28th March 2006. The matter has been listed today and therefore, this Court should pass orders deferring the same till 28th March 2006.

2. I see no reason to adjourn this matter when an innocuous relief of impleading the applicants as party plaintiffs in place of deceased sole plaintiff is being claimed in the Chamber Summons. The deceased sole plaintiff expired on 17th October 2005. The Chamber Summons is not taken out after such enormous delay as would require presence of the defendants. The defendants can always contest the matter on merits. As far as allowing impleadment is concerned, the applicants have satisfied the Court that they can as LRs prosecute the suit in place of the deceased plaintiff. From the averments in the affidavit in support of the Chamber Summons I am satisfied that the applicants are the LRs and can prosecute the suit. Learned advocate appearing for defendant submits that the applicants are not the only LRs of the deceased sole plaintiff but defendant no.2 and her daughters are also in the same position.

3. In my view, no prejudice would be caused if the present Chamber Summons is allowed, as it would be open for the second defendant and/or others to take out appropriate proceedings for either continuation in the same capacity or as party plaintiffs and such application would, if

made, be considered on it’s own merits and in accordance with law uninfluenced by grant of the relief in the present Chamber Summons.

4. Chamber Summons is made absolute in terms of prayer clauses (a), (b) and (bb).

(S.C.DHARMADHIKARI, J.)